



**SUPREME COURT OF CALIFORNIA
ORAL ARGUMENT CALENDAR
SAN FRANCISCO SESSION
MAY 7, 8, and 9, 2013**

The following cases are placed upon the calendar of the Supreme Court for hearing at its courtroom in the Ronald M. George State Office Complex, Earl Warren Building, 350 McAllister Street, Fourth Floor, San Francisco, California, on May 7, 8, and 9, 2013.

TUESDAY, MAY 7, 2013—9:00 A.M.

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| (1) | S202828 | Neighbors for Smart Rail v. Exposition Metro Line Construction Authority et al. (Los Angeles County Metropolitan Transportation Authority et al., Real Parties in Interest) |
| (2) | S194708 | Sierra Club v. Superior Court of California, County of Orange (County of Orange, Real Party in Interest) |
| (3) | S199074 | Rose (Harold) et al. v. Bank of America, N.A. (<i>Mauro, J., assigned justice pro tempore; Chin, J., not participating</i>) |

1:30 P.M.

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| (4) | S201413 | People v. Mata (Francis) |
| (5) | S194107 | People v. Cottone (Lee Vincent) |
| (6) | S034800 | People v. DeHoyos (Richard Lucio) [Automatic Appeal] |

WEDNESDAY, MAY 8, 2013—9:00 A.M.

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| (7) | S200944 | Martinez (Raymond) et al. v. Brownco Construction Co., Inc. |
| (8) | S203561 | In re Marriage of Green (Julie R. and Timothy P.) |
| (9) | S193493 | Ceja (Nancy) et al. v. Rudolph & Sletten, Inc. et al. |

1:30 P.M.

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| (10) | S178542 | Zhang (Yanting) v. Superior Court of San Bernardino County (California Capital Ins. Co., Real Party in Interest) |
| (11) | S201186 | People v. Smith (Dewone T.) |
| (12) | S080054 | People v. Linton (Daniel Andrew) [Automatic Appeal] |

THURSDAY, MAY 9, 2013—10:00 A.M.

- (13) S200475 Western States Petroleum Assn. v. State Board of
Equalization (*McDonald, McKinster, and Mallano, JJ.,
assigned justices pro tempore; Baxter, Chin, and
Corrigan, JJ., not participating*)
- (14) S080840 People v. Rogers (Glen) [Automatic Appeal]

CANTIL-SAKAUYE

Chief Justice

If exhibits are to be transmitted to this court, counsel must apply to the court for permission. (See Cal. Rules of Court, rule 8.224(c).)

**SUPREME COURT OF CALIFORNIA
ORAL ARGUMENT CALENDAR
SAN FRANCISCO SESSION
MAY 7, 8, and 9, 2013**

The following case summaries are issued to inform the public about cases that the California Supreme Court has scheduled for oral argument and of their general subject matter. In most instances, the descriptions set out below are reproduced from the original news release issued when review in each of these matters was granted and are provided for the convenience of the public. The descriptions do not necessarily reflect the view of the court or define the specific issues that will be addressed by the court.

TUESDAY, MAY 7, 2013—9:00 A.M.

(1) Neighbors for Smart Rail v. Exposition Metro Line Construction Authority et al. (Los Angeles County Metropolitan Transportation Authority et al., Real Parties in Interest), S202828

#12-88 Neighbors for Smart Rail v. Exposition Metro Line Construction Authority et al. (Los Angeles County Metropolitan Transportation Authority et al., Real Parties in Interest), S202828. (B232655; 205 Cal.App.4th 552; Superior Court of Los Angeles County; BS125233.) Petition for review after the Court of Appeal affirmed the judgment in an action for writ of administrative mandate. This case includes the following issue: Under the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.), is a public agency required to evaluate a project's potential traffic and other impacts using a baseline consisting of the existing physical conditions in the affected area during the period of environmental review, or may an agency elect to evaluate the impacts of a project only against projected future conditions?

(2) Sierra Club v. Superior Court of California, County of Orange (County of Orange, Real Party in Interest), S194708

#11-111 Sierra Club v. Superior Court of California, County of Orange (County of Orange, Real Party in Interest), S194708. (G044138; 195 Cal.App.4th 1537; Superior Court of Orange County; 30-2009-00121878.) Petition for review after the Court of Appeal denied a petition for peremptory writ of mandate. This case presents the following issue: Is Orange County's computer database of public land records exempt

from disclosure under the Public Records Act (Gov. Code, § 6250 et seq.) as a “computer mapping system[.]” (Gov. Code, § 6254.9, subd. (b)), or is that term limited to computer programs that read such a database?

(3) *Rose (Harold) et al. v. Bank of America, N.A. (Mauro, J., assigned justice pro tempore; Chin J., not participating), S199074*

#12-25 *Rose (Harold) et al. v. Bank of America, N.A., S199074.* (B230859; 200 Cal.App.4th 1441; Superior Court of Los Angeles County; BC433460.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issue: Can a cause of action under the Unfair Competition Law (Bus. & Prof. Code, § 17200 et seq.) be predicated on an alleged violation of the Truth in Savings Act (12 U.S.C. § 4301 et seq.), despite Congress’s repeal of the private right of action initially provided for under that Act?

1:30 P.M.

(4) *People v. Mata (Francis), S201413*

#12-46 *People v. Mata (Francis), S201413.* (B226256; 203 Cal.App.4th 898; Superior Court of Los Angeles County; BA366071.) Petition for review after the Court of Appeal reversed a judgment of conviction of criminal offenses. This case presents the following issues: (1) Did the trial court err in reseating a challenged prospective juror following defendant’s successful *Wheeler/Batson* motion (*People v. Wheeler* (1978) 22 Cal.3d 258; *Batson v. Kentucky* (1986) 476 U.S. 79)? (2) Did the defense impliedly consent to reseating the juror? (3) If defense counsel did not consent, was any error reversible per se or subject to harmless error analysis?

(5) *People v. Cottone (Lee Vincent), S194107*

#11-101 *People v. Cottone (Lee Vincent), S194107.* (C042923; 195 Cal.App.4th 245; Superior Court of Orange County; 06HF1734.) Petition for review after the Court of Appeal reversed a judgment of conviction of criminal offenses. This case presents the following issue: Did the Court of Appeal err by holding (a) that a prior sexual offense

committed by defendant when he was under the age of 14 could not be admitted as propensity evidence under Evidence Code section 1108 without a finding by the jury that he appreciated the wrongfulness of his actions at the time he committed the prior offense, and (b) that the failure to instruct the jury on this question constituted reversible error?

(6) ***People v. DeHoyos (Richard Lucio), S034800*** [Automatic Appeal]

This matter is an automatic appeal from a judgment of death.

WEDNESDAY, MAY 8, 2013—9:00 A.M.

(7) ***Martinez (Raymond) et al. v. Brownco Construction Co., Inc., S200944***

#12-45 Martinez (Raymond) et al. v. Brownco Construction Co., Inc., S200944.

(B226665; 203 Cal.App.4th 507; Superior Court of Los Angeles County; KC050128.)

Petition for review after the Court of Appeal affirmed in part and reversed in part the judgment in a civil action. This case presents the following issue: When a plaintiff makes two reasonable settlement offers under Code of Civil Procedure section 998, both of which expire by operation of law, does the second offer extinguish the first such that the later offer is the operative one for purposes of the cost-shifting provisions of section 998, subdivision (d)?

(8) ***In re Marriage of Green (Julie R. and Timothy P.), S203561***

#12-92 In re Marriage of Green (Julie R. and Timothy P.), S203561. (A129436; 205 Cal.App.4th 1475; Superior Court of Contra Costa County; D0801292.) Petition for review after the Court of Appeal reversed the judgment in a marital dissolution action. This case presents the following issue: Did the Court of Appeal err in concluding that one spouse's four years of CalPERS service credits, which were purchased partly with community funds and were based on his military service before the marriage, were not entirely his separate property and had to be allocated between community and separate property?

(9) *Ceja (Nancy) et al. v. Rudolph & Sletten, Inc. et al., S193493*

#11-95 Ceja (Nancy) et al. v. Rudolph & Sletten, Inc. et al., S193493. (H034826; 194 Cal.App.4th 584; Superior Court of Santa Clara County; CV112520, CV115283.)

Petition for review after the Court of Appeal reversed the judgment in a civil action. This case presents the following issue: Is a person's good faith belief in the validity of a marriage measured by an objective or subjective standard for the purpose of determining the person's status as a putative spouse under Code of Civil Procedure section 377.60?

1:30 P.M.

(10) *Zhang (Yanting) v. Superior Court of San Bernardino County (California Capital Ins. Co., Real Party in Interest), S178542*

#10-16 Zhang (Yanting) v. Superior Court of San Bernardino County (California Capital Ins. Co., Real Party in Interest), S178542. (E047207; 178 Cal.App.4th 1081; Superior Court of San Bernardino County; CIVVS701287.) Petition for review after the Court of Appeal granted a petition for peremptory writ of mandate. This case presents the following issues: (1) Can an insured bring a cause of action against its insurer under the unfair competition law (Bus. & Prof. Code, § 17200) based on allegations that the insurer misrepresents and falsely advertises that it will promptly and properly pay covered claims when it has no intention of doing so? (2) Does *Moradi-Shalal v. Fireman's Fund Ins. Companies* (1988) 46 Cal.3d 287 bar such an action?

(11) *People v. Smith (Dewone T.), S201186*

#12-47 People v. Smith (Dewone T.), S201186. (B223181; 203 Cal.App.4th 1051; Superior Court of Los Angeles County; BA337647.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses. This case presents the following issue: Should the trial court have instructed the jury, as requested, on misdemeanor resisting a peace officer (Pen. Code, § 148, subd. (a)(1)) as a lesser included offense of resisting an executive officer in the lawful performance of his duty (Pen. Code, § 69)?

(12) ***People v. Linton (Daniel Andrew), S080054*** [Automatic Appeal]

This matter is an automatic appeal from a judgment of death.

THURSDAY, MAY 9, 2013—10:00 A.M.

(13) ***Western States Petroleum Assn. v. Board of Equalization (McDonald, McKinster, and Mallano, JJ., assigned justices pro tempore; Baxter, Chin, and Corrigan, JJ., not participating), S200475***

#12-54 Western States Petroleum Assn. v. Board of Equalization, S200475. (B225932; 202 Cal.App.4th 1092; Superior Court of Los Angeles County; BC403167.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issues: (1) Was the economic impact statement prepared by the State Board of Equalization prior to adopting Property Tax Rule 474 (Cal. Code Regs., tit. 18, § 474) adequate under the standards prescribed by Government Code section 11346.5? (2) Is Property Tax Rule 474 inconsistent with Revenue and Taxation Code section 51, subdivision (d), and thus invalid pursuant to Government Code section 11342.2?

(14) ***People v. Rogers (Glen), S080840*** [Automatic Appeal]

This matter is an automatic appeal from a judgment of death.